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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,109	10/15/2003	P. Mark Hogarth	4102-4-1	8719
22442	7590	07/05/2005	EXAMINER	
			BORIN, MICHAEL L	
		ART UNIT		PAPER NUMBER
		1631		

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/687,109	HOGARTH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Borin	1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 58-74 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) 58-74 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

### Part III DETAILED ACTION

Claims 58-74 are currently pending.

#### Restriction Requirement

Restriction to one of the following inventions is required under 35 U.S.C. 121. Note that the groups listed below will be classifiable only after selection of an ultimate compound species.

- I. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein.

Group I is further divided into following groups:

- I.1. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RI.

- I.2. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIa

- I.3. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIb

- I.4. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIc

- I.5. Claims 58-64, drawn to composition comprising inhibitor of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIb

- II. Claim 65, drawn to composition comprising stimulator of Fc<sub>y</sub>R protein.

Group II is further divided into following groups:

- II.1. Claim 65, drawn to composition comprising stimulator of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RI.

- II.2. Claim 65, drawn to composition comprising stimulator of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIa

- II.3. Claim 65, drawn to composition comprising stimulator of Fc<sub>y</sub>R protein obtained using three-dimensional structure of Fc<sub>y</sub>RIIb

II.4. Claim 65, drawn to composition comprising stimulator of Fc $\gamma$ R protein obtained using three-dimensional structure of Fc $\gamma$ RIIc

II.5. Claim 65, drawn to composition comprising stimulator of Fc $\gamma$ R protein obtained using three-dimensional structure of Fc $\gamma$ RIIb

III. Claims 66-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein.

Group III is further divided into following groups:

III.1. Claims 66,67,70-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 1.

III.2. Claims 66,67,70-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 2.

III.3. Claims 66,67,68,70-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 3.

III.4. Claims 66,67,69,70-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 4.

III.5. Claims 66,67,70-73, drawn to composition comprising inhibitor of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 5.

IV. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein.

Group IV is further divided into following groups:

IV.1. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 1.

IV.2. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 2.

IV.3. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 3.

IV.4. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 4.

IV.5. Claim 74, drawn to composition comprising stimulator of Fc $\epsilon$ RI protein obtained using three-dimensional structure listed in Table 5.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I-IV are structurally and functionally different products, inhibitors or stimulators of different receptors, which are made by different methods and have different uses. The examination of the Groups will require different searches of the US Patents and scientific literature and would require consideration of different patentability issues.

Further, inventions of each of the Groups I-IV are structurally and functionally different products because they are obtained using different sets of coordinates and do not have any identified core structure required for common utility. The examination of the Groups will require different searches of the US Patents and scientific literature and would require consideration of different patentability issues.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

**Election of Species Requirement**

Election of species should be required prior to a search on the merits in all applications containing both species claims and generic or Markush claims.(MPEP 808.01(a))

If any of Groups I.1-I.5 or III.1-III.5 is elected, the following election of species is hereby required for the initial search for examination on merits:

The claims of Group are individually or dependently directed to a plurality of disclose patentably distinct species of chemical compounds (as in claims 61-63 or 70-72), which encompass a plethora of different compound subgenera that require a burdensome classification, and/or bibliographic, manual and computer search. Accordingly, regardless of which group is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

To be complete, a response to the election of species requirement should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added. MPEP 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Borin whose telephone number is (571) 272-0713. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, Ph.D., can be reached on (571) 272-0718. The fax phone

Art Unit: 1631

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Borin, Ph.D.  
Primary Examiner  
Art Unit 1631



mlb